



BOARD FOR GEOLOGISTS AND GEOPHYSICISTS
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**MINUTES OF THE MEETING OF THE
 BOARD FOR GEOLOGISTS AND GEOPHYSICISTS
 February 17, 2006
 2535 Capitol Oaks Drive
 Sacramento, CA 95833-2926**

1. Call Meeting to Order

Mr. Copelan, President, called the meeting to order at approximately 9:35 a.m.

2. Roll Call to Establish Quorum

Craig C. Copelan, President
 William E. Black
 Jeffrey Schmidt
 Cecilia L. Yu

Others in Attendance:

Paul Sweeney, Executive Officer
 Christine Doering, Staff Services Analyst
 Corrine Gray, Staff Services Analyst
 George Dunfield, Enforcement Manager
 Mike Luksic, Engineering Geologist
 George Ritter, Senior Legal Counsel, Department of Consumer Affairs (morning)
 Don Chang, Senior Legal Counsel, Department of Consumer Affairs (afternoon)
 Kevin Peterson, Budget Manager, Department of Consumer Affairs
 Anthony Lum, Budget Analyst, Department of Consumer Affairs
 Tony Sawyer, Technical Advisory Committee, Chair
 Scott Magorien, Enforcement Oversight Committee, Chair
 Kris Vyverberg, Department of Fish and Game
 Charles Nestle, Association of Environmental and Engineering Geologists (AEG) – So. California Section
 Marcia Kiese, Association of Environmental and Engineering Geologists (AEG) – Sacramento Section
 Andy Zdon, Team Engineering
 Rob Traylor, Golden State Environmental
 Rick Rempel, Rempel Consulting Inc.
 Misty Kaltreider, Solano County
 Mary Alice Coleman, Attorney
 Livia Borak, Center for Public Interest Law
 Kim Tremaine, Argus Technologies

Cindi Fernandez, Board for Professional Engineers and Land Surveyors
 Ignacio Lopez-Alvarez, Board for Professional Engineers and Land Surveyors

The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California

3. Presentation of Certificate of Appreciation to Board Member Dr. Robert A. Matthews, Ph.D.

Mr. Copelan presented to those in attendance the certificate that would be given to Dr. Matthews. He further expressed his appreciation for the outstanding job that Dr. Matthews has done for the Board.

4. Election of Board Vice-President and Enforcement Oversight Committee (EOC) Member

Mr. Black was nominated for Board Vice-President by both Ms. Yu and Mr. Schmidt. There were no other nominations. Mr. Black was elected Vice-President by a unanimous vote. Ms. Yu volunteered to serve as the EOC member. Mr. Sweeney stated the history of the Board has been to have a licensee serve in this position. Mr. Copelan stated that it would be best to have a licensee as in the past. Mr. Black agreed to serve as the EOC member.

5. Public Comment on Non-Agenda Items

Mr. Rempel asked counsel about board meeting and delegation procedures as well as the appeal process regarding actions of the Executive Officer (EO). Mr. Ritter stated that the Board can place on the agenda and gave a brief summary and examples of the process by which delegation is generally handled by boards. Mr. Ritter further stated that the appeal process is laid out in the Bagley-Keane Act, which allows the Board to hold closed session regarding employees or the Executive Officer. The process for appeal of a specific decision made by the EO is dependent on the type of decision and should refer to the APA (Administrative Procedures Act).

Agenda Item 15a – Budget Report Taken Out of Order Due to Schedules of Presenters
Kevin Peterson, Budget Manager and Tony Lum, Budget Analyst presented the Budget Report. They provided updated budget information which showed actual expenditures through 01/31/06 and showed a 0.06% projected surplus. Mr. Lum will work closely with the Executive Officer and staff as the budget is tight. Mr. Black asked for clarification regarding upcoming budget increases. Mr. Peterson differentiated the current budget situation from the increased expenditure authority, staff addition and revenues which have been approved for the next fiscal year. He further explained the budget change proposal (BCP) process, timeframes, and the need to have revenues to support expenditures (fee increase). Per Mr. Peterson the Board's budget situation is still tight for the current year but continues to improve.

6. Approval of the Minutes of the December 2, 2005 Joint Board/TAC Committee and January 20, 2006 Joint Board/Examination Committee Meetings

The minutes were discussed in depth by the Board and public meeting participants. The discussion included concerns regarding quorum requirements, format, technical errors and objectivity. Mr. Schmidt moved to approve the minutes as amended. Ms. Yu seconded the motion. Mr. Copelan initiated additional discussion. Edits will be passed onto staff for correction. Mr. Copelan stated that the spelling of Ms. Kaltreider's name

needs to be corrected and item #16 identified as an agenda item (not non-agenda item) and will need to be moved within the minutes and the point when Mr. Schmidt arrived identified. Mr. Copelan further stated that the TAC comments should be summarized and included in the TAC portion of the minutes. Mr. Ritter recommended that Gary Duke explain the options of verbatim versus summary inclusion of the comments at the next meeting. Mr. Copelan asked if the remainder of the minutes could be approved and Mr. Ritter confirmed. Mr. Copelan asked Mr. Schmidt to consider making his motion concurrent with the discussion with legal. Mr. Schmidt agreed and made the motion. Ms. Yu seconded. Motion passed unanimously.

7. Consideration of Approval of a 120-Day Temporary Certified Engineering Geologist License via Section 7848 of the Geologists and Geophysicists Act for Misty Carol Kaltreider, PG #7016.

Mr. Sweeney reported that Misty Kaltreider had applied for a 120-day temporary Certified Engineering Geologist (CEG) license and that she would be sitting for the CEG exam on March 3, 2006. Per Ms. Kaltreider she applied for the temporary license last year based on the needs of Solano County Department of Resource Management. She stated that there is a high turnover rate for engineers and that the county wants to expand geologists into other roles. Per Mr. Sweeney staff recommends the approval of the temporary license for 120 days. Mr. Rempel stated that the Board was unable to take action at the December 2, 2005 and Ms. Kaltreider was told that the issue would be addressed at the next Board meeting. He further stated that the issue was not placed on the agenda for the January 20, 2006 Board meeting. Mr. Black moved to approve the 120-day temporary Certified Engineering Geologist license. Mr. Schmidt seconded the motion. The motion passed unanimously. Mr. Copelan and Mr. Black apologized for the oversight of not placing Ms. Kaltreider on agenda for the previous meeting.

8. Consideration of Approval of Comity Applications for Licensure Via Section 7847 of the Geologists and Geophysicists Act

Mr. Sweeney stated that staff recommended all applicants with the exception of Stephan B. Meurer be approved for licensure under Section 7847. Mr. Meurer is not licensed and is sitting for the exam on March 3, 2006. Mr. Rempel suggested that staff licensed geologists be utilized to evaluate applicants. Mr. Nestle questioned how any of the applicants could meet requirements given that 7841(d) requires that individuals must have taken and pass a written exam and supplemental CA exam. Mr. Ritter stated that this specific statute is regarding general examination guidelines. Mr. Schmidt moved to approve all comity applications presented with the exception of Stephan B. Meurer. Mr. Black seconded the motion. The motion passed unanimously. Approval of comity applications were granted to the following: Rebecca Domingo Neumann; Matthew A. Barner; Roberto V. Gonzales; Gina M. Calderon; Keith A. Romstad; John Vincent Hurley; Laura J. Odenthal; Yi Liao; Khalid Parvez Durrani; John J. Renda; Galen J. Kenoyer; Jason Scott Woodward.

9. Technical Advisory Committee Report

a. Report on February 3, 2006 TAC Meeting

Mr. Sawyer reported that there were five (5) members present at the meeting. He

stated that the TAC discussed the candidate handbook among other issues and the TAC would like to recommend that the various standing committees be given the opportunity to review and provide input upon completion.

b. Recommendation to the Board of new TAC members

Mr. Sawyer stated that at the time of the meeting there were three resumes. It was decided that efforts needed to be increased to solicit more participation. At the meeting Mr. Mello had asked if a grace period was an option in terms of TAC member tenure. Mr. Sawyer clarified that historically there has been an allowance of a six month grace period or until the positions are filled.

c. Recommendation to the Board for use of licensure fact sheets

Mr. Sawyer reported that the TAC is almost done with the fact sheets. They anticipate completion at the May meeting and ready for presentation to the Board at their May meeting.

d. Recommendation to the Board of new Continuing Education requirements

Mr. Sawyer reported that there was a consensus among members in attendance in favor of continuing education requirements. They will be looking at various states and California state agencies that have such requirements.

e. Recommendation to the Board of potential changes to the Code of Professional Standards, section 3065, Title 16, Division 29, California Code of Regulations

Mr. Sawyer reported that he would be providing TAC members with a strike out and line through versions of changes.

f. Update on Forest Practices, the protection of Salmonid Habitat and the licensed practice of geology

Ms. Vyverberg suggested that the heading of her updates be changed to “update on watershed restoration and the licensed practice of geology” as it more accurately reflects her reports. Per Ms. Vyverberg she had anticipated getting back the revised Department of Fish and Game’s Habitat Restoration Manual from the original authors for which she had provided comments in regard to where they had slid into the practice of geology. It showed up in January while she was out of the country and she is working on revisions. Completion is anticipated by the beginning of March.

g. Other TAC issues

Mr. Sawyer stated that there were three (3) Board staff members at the February 3, 2006 meeting, and that the Board may need to reach out to Forestry as there has been very little input from the Forestry TAC. Mr. Copelan directed the question regarding the six (6) month grace period to Mr. Ritter who confirmed that a grace period would be allowable. Mr. Copelan asked Mr. Sawyer to extend

the option for a grace period to the other TAC members

10. Selection of participants for the Candidate Handbook Workshops to be administered by the Department of Consumer Affairs Office of Examination Resources that will be held March 2 & 3 and March 9 & 10, 2006

Mr. Sweeney stated that volunteer responses have been coming in and that about eight (8) participants are needed per workshop. Mr. Sawyer asked if exam questions would be part of the workshop. Mr. Sweeney stated that exam questions would not be included. The six (6) main laws and specifics of California geology will be reviewed.

11. Legislative Committee Report

a. Sunset Review

Mr. Sweeney provided history regarding the Sunset Review, California Performance Review recommendation, and Legislative Committee reports. He also provided general criteria of what the Board may need to respond to for the next Sunset Review and reported that no information has been received as to what information will be needed. Mr. Rempel and Mr. Nestle expressed concerns regarding the handling of the prior sunset review committee hearing. Mr. Nestle stated that a high percentage of users of geologic services were consumers and that this had not been adequately focused on during the hearing. Mr. Copelan asked Mr. Nestle to provide statistical information to Mr. Sawyer/TAC for consideration with the next Sunset Review. Mr. Rempel stated that Mr. Dunfield might also be able to provide information.

b. Elimination of the California Specific Examination (CSE)

Mr. Sweeney presented correspondence from Hugh Robertson and Charles Nestle in opposition of eliminating the CSE and stated that legislation regarding the CSE is still in the works. Mr. Sweeney stated that the Board is working with G.V. Ayers (Business and Professions Committee) and that the deadline for new legislation to be submitted is February 24, 2006. Mr. Copelan asked staff to review and prepare a response to the January 20, 2006 letter.

12. Examination Committee Report

a. Report on Committee Meeting of January 20, 2006

Mr. Sweeney reported that the exam documents had been completed for this year. The committee is getting ready to begin work on the next cycle of Certified Engineering Geologist and California Specific exams (PGP just finished).

b. Update on preparations for the March 3, 2006 licensing examinations

Mr. Sweeney stated that there are seventy (70) GIT (Geologist-In-Training) examinees scheduled (up from two (2) in 2005 which was the first year the GIT was offered). Mr. Magorien asked about the geographic distribution and trend of

applicants since the beginning of licensure in California. Mr. Sweeney stated that after exams the Board will look at which schools were attended by the applicants in order to determine which schools are not represented. Mr. Sweeney further stated that although the number of applicants is increasing the loss of licensees is still greater than incoming. Outreach will need to be increased to promote the profession.

(Mr. Sawyer stated that there had not been any ex-officio members on the TAC in two years. Mr. Schmidt and Ms. Yu agreed to serve in this capacity.)

13. Consideration of scope of practice issue between Registered Environmental Health Specialists (REHS), Civil Engineers and Professional Geologists, specifically septic system design issues

Mr. Sweeney reported that the issue had been referred to the Board for Professional Engineers and Land Surveyors (BPELS) for input and that a response had been received. According to BPELS independent technical expert none of the tasks described in the Solano County Ordinance constitute the practice of civil engineering. Mr. Dunfield summarized the issue of whether or not a geologist can perform those aspects of septic system design that are interpretive and considered the practice of geology. Mr. Dunfield stated that if it is not the practice of civil engineering then it does seem appropriate for a geologist to perform within the scope of septic system design and review. Ms. Kaltreider stated that with the Solano County Ordinance it was mandated that only REHS and CE can design site specific systems. Mr. Sweeney stated that if an REHS is qualified to perform the work that a geologist is as well. Mr. Sawyer stated that in San Diego County geologists, civil engineers, and REHS can perform the work. Mr. Copelan recommended that the BGG TAC contact the BPELS TAC and develop language for this issue. The Board members agreed. Mr. Copelan asked Mr. Sawyer to target the language for the next meeting.

14. Consideration of request for clarification regarding the practice of geophysics and archaeology

Ms. Tremaine asked for clarification as to whether or not it is legal for an archeologist to practice geophysics for archeological purposes. Mr. Black stated that in regard to consumer protection that anyone doing geophysics would need to be licensed. Mr. Magorien stated that a distinction needs to be made between research and commercial. Per Ms. Tremaine their use is almost always commercial. Mr. Magorien stated that if for commercial purposes then licensure is needed. Mr. Sweeney suggested writing a letter stating the Board's position that would be presented for discussion and signature at the next meeting. The Board agreed. Mr. Copelan encouraged Ms. Tremaine to seek out appropriate geophysics assistance. Ms. Tremaine requested additional clarification as to the legality of soil scientists practicing geophysics and asked the Board to revisit an enforcement issue. Mr. Chang directed her to the Executive Officer. Mr. Black stated that as long as the soil scientist is working under a licensed geophysicist then the work would be considered legal. Mr. Sweeney stated that if not under the responsible charge of a licensee the work would not. Mr. Copelan stated that future strategic plans should address overlapping disciplines including: hydrologists, utility locators, archeologists, paleontologists, and soil scientists.

15. Executive Officer's Report

a. Budget Report

(See Agenda Item #5 – Budget report taken earlier in meeting due to the schedules of budget personnel making presentation).

b. Enforcement Report

Mr. Luksic discussed a complaint that had been referred from the Los Angeles County Department of Consumer Affairs. Gilbert Otani had paid for a geologic report and after six weeks had passed without receipt of the report Mr. Otani requested a refund from Lands Alliance. Mr. Luksic followed up with Lands Alliance to ensure the refund was secured. Mr. Otani wrote the Board expressing his appreciation.

Mr. Dunfield reported that there is a trend of more joint cases and investigations with other agencies (and planned joint investigation with the Registered Environmental Assessor (REA) program). The following citations were closed: Bill Dugan, for chronically falling below the standard of practice; Daniel Tims, REA, for land assessments for US Bank; Randall Irwin, for work-site conditions; Dr. Mara Johnson, unlicensed practice of geophysics; Dr. Robin Chang, for not maintaining responsible charge while working with an REA. Mr. Dunfield reported meeting with representatives from the Department of Investigation to build closer relationships in regard to working with investigators. The enforcement unit worked with Kevin Flannigan to develop media advisory in regard to available local technical experts. A presentation was made to the State Water Resources Control Board Land Disposal Program Manager to increase outreach.

The Board received a court ruling regarding the Tony Jamarillo case. The Board issued a citation in the beginning of 2003. It was appealed to the Administrative Law Judge, and then appealed to the Superior Court and again to 4th District Appellate Court where it was upheld. Mr. Dunfield stated that this was the first precedential case in the history of the Board. There is additional litigation occurring in regard to a second citation with Mr. Jamarillo.

16. Legal Report

Mr. Chang stated that he had nothing to report.

17. Discussion of personnel matters, examination procedures and results, and pending litigation (as needed)

a. Performance Appraisal of Executive Officer

The Board went into closed session to discuss the performance of the Executive Officer.

18. Report on results of Closed Session

Mr. Copelan stated that the Board met in closed session to discuss a personnel issue. The Board will continue to investigate and set another meeting in a month for possible action. Additional information will be forthcoming about that meeting date.

19. Announcements

There were no additional announcements.

20. Adjourn Meeting

The meeting was adjourned at approximately 4:46 p.m.

CRAIG A. COPELAN, P.E., BOARD PRESIDENT

PAUL SWEENEY, BOARD EXECUTIVE OFFICER

Date Approved: May 19, 2006